REMARKS/ARGUMENTS

Claims 1-27 and 41-42 are pending in the application.

Applicant, by this paper, amends claims 1, 8, 16, 22, 23, 41, and 42. No new matter is added by amendment. Applicant respectfully requests reconsideration and allowance of all pending claims.

Discussion of Double Patenting Rejections

Claims 1, 8, and 41 were rejected under the judicially created doctrine of nonstatutory double patenting over claims 1, 23, and 66 of U.S. Patent Application Publication No. 2003/0220075 to Baker et al. (hereinafter Baker).

Ordinarily, a nonstatutory double patenting rejection based on the claims from a pending application will be made a Provisional Rejection pending the allowance of one of the double patenting reference or the instant application. However, we note that U.S. Patent Application Publication No. 2003/0220075 issued on June 13, 2006 as U.S. Patent No. 7,062,224 (the '224 patent). Claims 1, 23, and 55 from the '224 patent are most similar to claims 1, 23, and 66 from U.S. Patent Application Publication No. 2003/0220075. Thus, the analysis of the nonstatutory double patenting rejection is based on analysis of Applicant's claims 1, 8, and 41 over claims 1, 23, and 55 from the '224 patent.

Applicant's claim 1 features "comparing a predetermined pattern to information derived from the received signal, wherein the information is based on the signals originating from the plurality of distinct transmission stations." Applicant's FIG. 4-6 illustrate the pattern of signals originating from the plurality of distinct transmission stations. This feature is not disclosed, taught or suggested by any one of claims 1, 23, and 55 from the '224 patent.

Applicant's claim 1 features comparing a predetermined pattern to information that is based on signals originating from a plurality of distinct transmission stations. Each of claims 1, 23, and 55 features "a discriminant applied by a repeater." The claims from the '224 patent do not teach or suggest any information based on signals originating from a plurality of distinct transmission sources. Therefore, Applicant's claim 1 is distinct from claims 1, 23, and 55 from the '224 patent, and Applicant respectfully requests reconsideration and withdrawal of the nonstatutory double patenting rejection of claim 1.

Applicant's claim 8 includes a similar feature of "the received wireless signal includes signals originating from a plurality of distinct transmission sources, and wherein the information is based on the signals originating from the plurality of distinct transmission stations." Claim 8 is believed to be patentable over claims 1, 23, and 55 from the '224 patent for at least the reasons provided above in relation to claim 1. Applicant respectfully requests reconsideration and withdrawal of the nonstatutory double patenting rejection of claim 8.

Applicant's claim 41 includes the feature of "means for comparing a predetermined pattern to information derived from the received wireless signal, wherein the information is based on the signals originating from the plurality of distinct transmission stations." Claim 41 is believed to be patentable over claims 1, 23, and 55 from the '224 patent for at least the reasons provided above in relation to claim 1. Applicant respectfully requests reconsideration and withdrawal of the nonstatutory double patenting rejection of claim 41.

Discussion of Rejections Under 35 U.S.C. §102

Claims 1, 8, 13, 15, 20-22, 26, 27, 41, and 42 were rejected under 35 U.S.C. §102(e) as allegedly anticipated by U.S. Patent Application Publication No. 2003/0220075 to Baker et al. (hereinafter Baker).

In order for a claim to be anticipated, a single prior art reference must describe, either expressly or inherently, each and every element as set forth in the claim.

Claim 1 recites a method of determining that a signal has arrived at a receiver via a repeater. The method includes "receiving a signal at a wireless receiver, wherein the received signal includes signals originating from a plurality of distinct transmission stations." The method further includes "comparing a predetermined pattern to information derived from the received signal, wherein the information is based on the signals originating from the plurality of distinct transmission stations."

Baker describes receiving a plurality of signal transmissions from a plurality of remote stations. *Baker*, Abstract. Baker also describes processing the received signal to identify a discriminant that indicates the presence of a repeater in the signal path. *Id.*

Baker describes that the discriminant is a signature that identifies the repeater. *Id.*, at Col. 5, ll. 30-31. The discriminant is applied on the signal to be repeated prior to retransmission by the repeater. *See, generally, id.*, FIG. 2A-2B and Col. 2, ll. 25-35.

The receiver in Baker analyzes a received signal to determine if it includes the discriminant. *See, generally, id.*, at Col. 2, ll. 35-60.

In contrast, Applicant's claim 1 features "comparing a predetermined pattern to information derived from the received signal, wherein *the information is based on the signals originating from the plurality of distinct transmission stations.*" (*emphasis added*). Baker does not describe deriving information based on signals from a plurality of distinct transmission sources. The repeater discriminant described in Baker is applied by each repeater individually, and the discriminant does not rely on there being signals from a plurality of distinct transmission stations.

The repeater in Baker may transmit delayed copies of a repeated signal as the discriminant. *Id.*, at FIG. 4 and Col. 6, ll. 38-43. However, it is the delayed replicas from the *same* repeater that constitute the repeater signature, and not signals from a plurality of distinct transmission stations.

Claim 1 is believed to be allowable over Baker, because Baker does not describe every claimed feature in the manner set forth in the claim. Applicant respectfully requests reconsideration and allowance of claim 1.

Claim 8 includes the feature of "a receiver configured to derive information from a received wireless signal, wherein the received wireless signal includes signals originating from a plurality of distinct transmission sources, and wherein *the information is based on the signals originating from the plurality of distinct transmission stations.*" (*emphasis added*). The claim further features comparing the information, which is based on signals from a plurality of transmission stations, to a stored set of parameters to determine presence of a repeater in the receive signal path.

As discussed above in relation to claim 1, Baker does not describe deriving information that is based on signals from a plurality of distinct transmission stations. Thus, Applicant believes that claim 8 is allowable over Baker.

Claim 15 features "identifying a pattern within information derived from the received signal wherein the information is based on the signals originating from the plurality of distinct transmission stations." The identified pattern is stored as the repeater signature. Baker does not describe determining a repeater signature from received signals from received signals originating

from a plurality of distinct transmission stations. Instead, Baker describes specifically determining a discriminant that is implemented into a repeater and applied by the repeater to the repeated signals. Baker does not describe storing a reference repeater signature based on received signals, because the discriminant in Baker is known.

Baker does not describe every claimed feature from claim 15, and claim 15 is believed to be allowable over Baker. Applicant respectfully requests reconsideration and allowance of claim 15.

Claim 22 includes features that are substantially similar to those discussed above in relation to claim 15. Claim 22 is believed to be allowable over Baker at least for the reasons presented above in relation to claim 15.

Claim 41 includes features that are substantially similar to those discussed above in relation to claim 1. Claim 41 is believed to be allowable over Baker at least for the reasons presented above in relation to claim 1.

Claim 42 includes features substantially similar to those discussed above in relation to claim 15. Claim 41 is believed to be allowable over Baker at least for the reasons presented above in relation to claim 15.

Claims 13, 20-21, 26, and 27 depend, either directly or indirectly from one of claims 8, 15, or 22 and are believed to be allowable over Baker at least for the reason that they depend from an allowable base claim. Applicant respectfully requests reconsideration and allowance of claims 13, 20-21, 26, and 27.

Discussion of Rejections Under 35 U.S.C. §103

Claims 2-7, 9-12, and 14 were rejected under 35 U.S.C. 103(a) as allegedly unpatentable over Baker in view of U.S. Patent No 6,961,367 to Simic, et al, (hereinafter Simic).

The instant application is a national stage application filed under 35 U.S.C. §371 of PCT/US2004/011816, filed April 16, 2004. The PCT application claimed priority to 60/463,927, filed April 17, 2003. Thus, the instant application has an effective filing date of June 27, 2003.

Baker has a publication date of November 27, 2003. Simic has a publication date of November 1, 2005. Thus, each of Baker and Simic only qualify as a prior art reference under 35 U.S.C. §102(e).

Each of Baker and Simic is disqualified as prior art against the claimed invention as provided in 35 U.S.C. §103(c)(1). Baker is not available as a prior art reference under 35 U.S.C. §103(a), because Baker (2003/0220075) and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. Similarly, Simic is not available as a prior art reference under 35 U.S.C. §103(a), because Simic (6,961,367) and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Baker (U.S. Application No. 10/316,780) is assigned to Qualcomm Incorporated, the assignee of the instant application. The assignment of Baker is recorded with the PTO on June 16, 2003, at Reel 014176 and Frame 0539.

Simic (U.S. Patent No. 6,961,367) is assigned to Qualcomm Incorporated, the assignee of the instant application. The assignment of Simic is recorded with the PTO on August 4, 2003, at Reel 014342 and Frame 0832.

The assignment of the invention of the instant application to Qualcomm Incorporated is recorded with the PTO on March 3, 2005, at Reel 017051 and Frame 0842.

Statement of Common Ownership

U.S. Patent Application No. 10/527,297 (the instant application), U.S. Patent Application No. 10/316,780 to Baker, et al. and U.S. Patent No. 6,961,367 to Simic et al. were, at the time the invention of the instant application was made, owned by Qualcomm Incorporated, or subject to an obligation of assignment to Qualcomm Incorporated.

Each of Baker and Simic are disqualified as prior art references under 35 U.S.C. §103(c)(1). All of the rejections under 35 U.S.C. 103(a) rely on the combination of Baker with Simic, and thus, in the absence of Baker and Simic, a *prima facie* case of obviousness cannot e established. Applicant respectfully requests reconsideration and allowance of claims 2-7, 9-12, and 14.

Discussion of Allowable Subject Matter

Claims 16-19 and 23-25 were objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim.

Applicant thanks the Examiner for the indication of allowable subject matter.

Applicant, by this paper, amends **claim 16** to be in independent form and to include all of the features from claim 15 from which it originally depended. There were no intervening claims. Applicant's deletion of the reference to claim 1 in the preamble of claim 16 is not believed to affect the patentability of the claim.

Claims 17-19 depend from claim 16 and are believed to be allowable at least for the reason that they depend from an allowable base claim.

Claim 23 is amended to be in independent form and to include all of the features from claim 22 from which it originally depended. There were no intervening claims. Applicant's deletion of the reference to claim 1 in the preamble of claim 23 is not believed to affect the patentability of the claim.

Claims 24-25 depend from claim 23 and are believed to be allowable at least for the reason that they depend from an allowable base claim.

CONCLUSION

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue, or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

In light of the amendments contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026. If a fee is required for an extension of time under 37 CFR 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

Dated March 26, 2009 By: _____

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